

ADMINISTRATIVE RULE CHANGES

Proposed in July 2006

Subjects include: Deer hunting; HIP registration exemption for youth hunters; Southeastern Bat; Cerulean Warbler; and technical corrections to the common and scientific names of endangered species of reptiles, fish, and mussels

The rule proposals are summarized below:

1. Clarifies the license requirements for hunting deer in the firearms and muzzleloader seasons to state that a firearms license is required in the firearms season and a muzzleloader license is required to hunt deer with a muzzleloader in the muzzleloader season. The changes also list the youth license and lifetime license that can be used to take deer during these seasons. The other proposed modification would allow rifles with only pistol cartridges to be used when hunting deer during the firearms season. Over the years, the DNR has received many emails and letters from hunters proposing a rule that would allow the use of rifles chambered for pistol cartridges for deer hunting. The language in the attached allows the use of rifles and limits cartridge dimensions to those common to pistol rounds, maintaining the DNR's long-time position of allowing only short to medium range equipment for taking deer. The DNR is proposing this rule modification in order to obtain public comment on this issue.
2. Clarifies the license requirements for hunting deer in the archery season to state that a youth license and lifetime license can also be used to take deer in the archery seasons.
3. Removes the southeastern bat from the endangered species list and clarifies that the list of mammals are all endangered, not threatened. The southeastern bat is one of the rarest and least known bats in Indiana. There has been no verified report of the southeastern bat in the state since 1977. No maternity colony of this bat has ever been found in Indiana, and extensive efforts to corroborate a report of a female captured on the White River (Davies/Knox counties) in 1998 have been unsuccessful. Based on these data, the Nongame Mammal Technical Advisory Committee felt the southeastern bat is of accidental occurrence in Indiana and is therefore best represented as special concern rather than an endangered resident species.
4. Exempts youth hunters that hunt migratory birds such as doves and ducks during the free youth hunting days designated by the director (as authorized in IC 14-22-11-18) from having to register with the Harvest Information Program (HIP). These youth hunters age 16 or under are already exempt from needing a state license or stamp to hunt on these free youth hunting days and are exempt from needing a federal duck stamp as well.
5. Clarifies that all of the species listed as considered to be endangered, not threatened, and corrects the scientific names of two species for consistency with current literature published by the Society for the Study of Amphibians and Reptiles.
6. Adds the cerulean warbler to the list of endangered species of birds. Populations of the cerulean warbler have been declining and increased conservation (habitat protection, habitat restoration, land management) actions are needed. As a state and federally protected bird, it already cannot be taken or possessed without a special permit. The Nongame Technical Advisory Committee recommends adding it to the list of the state's endangered species.
7. Removes "cavefishes" from the endangered species of fish. Two species of cavefish, the northern cavefish (*Amblyopsis spelaea*) and the southern cavefish (*Typhlichthys subterraneus*), have been known to exist in Indiana. The southern cavefish is definitely extirpated from Indiana and only one record is known for southern cavefish from Indiana, from the late 1800's, from a well in Corydon. Therefore, the DNR is proposing that only the northern cavefish remain on the endangered species list.

8. Makes revisions to the current scientific and common names of several species of mussels. These are simply corrections to the common names and a revision to the pyramid pigtoe scientific name to be consistent with current literature published by the American Fisheries Society.

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #06-272

Amends the provisions that govern the following administrative rule amendments: hunting deer by firearms; hunting deer by bow and arrows; endangered species of mammals; migratory birds and waterfowl, endangered species of birds, endangered species of reptiles and amphibians, endangered species of fish, and endangered species of invertebrates. Effective 30 days after filing with the secretary of state.

312 IAC 9-3-3

312 IAC 9-3-4

312 IAC 9-3-19

312 IAC 9-4-2

312 IAC 9-4-14

312 IAC 9-5-4

312 IAC 9-6-9

312 IAC 9-9-4

SECTION 1. 312 IAC 9-3-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-3 Hunting deer by firearms

Authority: IC 14-22-2-6

Affected: IC 14-22-11-1; IC 14-22-12-1; IC 35-47-2

Sec. 3. (a) This section is supplemental to section 2 of this rule and governs the activities of an individual who is either:

(1) issued a license to hunt deer by firearms under IC 14-22-12-1(a)(12), ~~IC 14-22-12-1(13)~~, or IC 14-22-12-1(a)(15), ~~or IC 14-22-12-1(16)~~ **during the season established in subsection (b); or**

(2) issued a license to hunt deer by a muzzle loading gun or muzzle loading handgun under IC 14-22-12-1(a)(13) or IC 14-22-12-1(a)(16) during the season established in subsection (c); or

(3) issued a lifetime license under IC 14-22-12-7 prior to July 1, 2005 during the seasons established in 312 IAC 9-3-3(b) and (c); or

(4) issued a youth yearly consolidated hunting license under IC 14-22-12-1(a)(24); or

~~(5)~~ **(5) hunting by the use of firearms under IC 14-22-11-1.**

(b) The season for hunting deer with firearms is as follows:

(1) The firearms season using:

(A) shotgun;

(B) shotgun with rifled barrel;

(C) handgun;

(D) muzzle loading gun; ~~or~~

(E) muzzle loading handgun; **or**

(F) rifle, with the use of cartridges described in subsection (f) (4) only;

is from the first Saturday after November 11 and continues for an additional fifteen (15) days.

(2) The seasonal limit for hunting deer under this subsection is one (1) antlered deer.

(c) In addition to the season established under subsection (b), the season for using a muzzle loading gun or muzzle loading handgun only:

(1) extends from the first Saturday after the firearms season established under subsection (b); and

(2) continues for fifteen (15) additional days.

The seasonal limit for hunting deer under this extended season is one (1) deer of either sex.

- (d) A person must not hunt deer except from one-half (½) hour before sunrise to one-half (½) hour after sunset.
- (e) A person must not do the following:
- (1) Hunt deer unless that person wears hunter orange.
 - (2) Possess bow and arrows while hunting under this section.
- (f) The following requirements apply to the use of firearms under this section:
- (1) A shotgun:
 - (A) must have a gauge 10, 12, 16, 20, or .410 bore loaded with a single projectile; and
 - (B) may be possessed in the field outside lawful shooting hours only if there are no shells in the chamber or magazine.
 - (2) A handgun must:
 - (A) conform to the requirements of IC 35-47-2;
 - (B) have a barrel at least four (4) inches long; and
 - (C) fire a bullet of two hundred forty-three thousandths (.243) inch diameter or larger.

All 38 special ammunition is prohibited. The handgun cartridge case, without bullet, must be at least one and sixteen-hundredths (1.16) inches long. A handgun must not be concealed. Full metal jacketed bullets are unlawful. A handgun may be possessed in the field outside lawful shooting hours only if there are no shells in the chamber or magazine. All 25/20, 32/20, 30 carbine, and 38 special ammunition is prohibited.
 - (3) A muzzle loading gun must be .44 caliber or larger, loaded with a bullet at least three hundred fifty-seven thousandths (.357) inch or larger. A muzzle loading handgun must be single shot, .50 caliber or larger, loaded with bullets at least .44 caliber and have a barrel at least twelve (12) inches long. The length of a muzzle loading handgun barrel is determined by measuring from the base of the breech plug, excluding tangs and other projections, to the end of the barrel, including the muzzle crown. A muzzle loading gun must be capable of being loaded only from the muzzle, including both powder and bullet. A muzzle loading gun may be possessed in the field outside lawful shooting hours only if:
 - (A) for percussion firearms, the cap or primer is removed from the nipple or primer adapter; or
 - (B) for flintlock firearms, the pan is not primed.
 - (4) A rifle must:**
 - (A) fire a bullet of three hundred fifty-seven thousandths of an inch (.357) diameter or larger;**
 - (B) have a minimum case length of one and sixteen hundredths (1.16) inches; and**
 - (C) have a maximum case length of one and six hundred twenty-five thousandths (1.625) inches.**
 - ~~(4)~~ **(5) Over-and-under combination rifle-shotguns are prohibited.**
- (Natural Resources Commission; 312 IAC 9-3-3; filed May 12, 1997, 10:00 a.m.: 20 IR 2703; filed Nov 13, 1997, 12:09 p.m.: 21 IR 1272; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1530; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 538)*

SECTION 2. 312 IAC 9-3-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-4 Hunting deer by bow and arrows

Authority: IC 14-22-2-6

Affected: IC 14-22-11-1; IC 14-22-12-1

Sec. 4. (a) This section is supplemental to section 2 of this rule and governs the activities of an individual who is either:

- (1) issued a license to hunt deer by bow and arrows under IC 14-22-12-1(a)(14) or IC 14-22-12-1(a)(17), **IC 14-22-12-1(a)(24), or IC 14-22-12-7** and is supplemental to section 2 of this rule; or
- (2) hunting by the use of a bow and arrows under IC 14-22-11-1.

(b) The season for hunting deer by bow and arrows during the early bow season is from October 1 through the firearms season (set forth in section 3(b) of this rule) and during the late bow season from the first Saturday after the firearms season through the first Sunday in January.

(c) The urban deer season is from September 15 through the firearms season (set forth in section 3(b) of this rule) and during the late bow season from the first Saturday after the firearms season through the first Sunday in January.

(d) The seasonal limit for hunting under this section is one (1) deer of either sex. After August 31, 2007, a person must not take an antlered deer by means of a crossbow.

(e) A person must not hunt deer under this section except from one-half (½) hour before sunrise to one-half (½) hour after sunset.

(f) A person must not hunt deer under this section unless that person wears hunter orange. However, this subsection does not apply before the commencement of the firearms season set forth in section 3(b) of this rule and after the muzzle loading gun season set forth in section 3(c) of this rule.

(g) A person must not hunt under this section unless that person possesses only one (1) bow. A person must not possess a firearm while hunting under this section.

(h) The following requirements apply to the use of archery equipment under this section:

(1) No person shall use a long bow or compound bow of less than thirty-five (35) pounds pull.

(2) Arrows must be equipped with metal or metal-edged (or flint, chert, or obsidian napped) broadheads.

(3) Poisoned or explosive arrows are unlawful.

(4) Bows drawn, held, or released other than by hand or hand-held releases are unlawful.

(5) A long bow or compound bow may be possessed in the field before and after lawful shooting hours only if the nock of the arrow is not placed on the bow string.

(6) No portion of the bow's riser (handle) or any:

(A) track;

(B) trough;

(C) channel;

(D) arrow rest; or

(E) other device;

that attaches to the bow's riser shall contact, support, or guide the arrow from a point rearward of the bow's brace height.

(i) Notwithstanding subsection (h), a person may use a crossbow to take a deer of either sex during the late bow season from the first Saturday after the firearms season through the first Sunday in January if the following restrictions are met:

(1) No person shall use a crossbow:

(A) of less than one hundred twenty-five (125) pounds pull; or

(B) that does not have a mechanical safety.

(2) A crossbow may be possessed in the field before and after lawful shooting hours only if the nock of the arrow is not placed on the bow string.

(j) As used in this rule, "crossbow" means a device for propelling an arrow by means of traverse limbs mounted on a stock and a string and having a working safety. The crossbow may be drawn, held, and released by a mechanical device. (*Natural Resources Commission; 312 IAC 9-3-4; filed May 12, 1997, 10:00 a.m.: 20 IR 2703; filed Nov 5, 1997, 3:25 p.m.: 21 IR 930; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1530; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 538; filed May 25, 2005, 10:15 a.m.: 28 IR 2945*)

SECTION 3. 312 IAC 9-3-19 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-3-19 Endangered species of mammals

Authority: IC 14-22-2-6; IC 14-22-34-17

Affected: IC 14-22-34-2; IC 14-22-34-12

Sec. 19. The following species of mammals are ~~threatened or~~ endangered and are subject to the protections provided under IC 14-22-34-12:

(1) Indiana bat (*Myotis sodalis*).

(2) Gray bat (*Myotis grisescens*).

~~(3) Southeastern bat (*Myotis austroriparius*).~~

~~(4)~~ (3) Evening bat (*Nycticeius humeralis*).

- ~~(5)~~ **(4)** Eastern wood rat (*Neotoma floridana*).
- ~~(6)~~ **(5)** Swamp rabbit (*Sylvilagus aquaticus*).
- ~~(7)~~ **(6)** Franklin's ground squirrel (*Spermophilus franklinii*).

(Natural Resources Commission; 312 IAC 9-3-19; filed May 12, 1997, 10:00 a.m.: 20 IR 2708; filed May 16, 2002, 12:25 p.m.: 25 IR 3046; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

SECTION 4. 312 IAC 9-4-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-4-2 Migratory birds and waterfowl

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 2. (a) The restrictions in this section supplement state statutes and federal laws that protect migratory birds and waterfowl.

(b) A person must not hunt migratory birds and waterfowl, except for mute swans (*Cygnus olor*), unless the person:

- (1) is registered with; and
- (2) possesses an identification number issued through; the Harvest Information Program.

(c) Notwithstanding subsection (b), a resident youth hunter participating in a free hunting day for youth hunters as designated by the director is exempt from

- (1) registration with; and**
 - (2) possession of an identification number issued through;**
- the Harvest Information Program.**

(d) As used in this rule, a youth hunter means an individual who is less than sixteen (16) years of age on the date of the hunt.

~~(e)~~ **(e)** A person must not take or possess a Virginia rail.

(Natural Resources Commission; 312 IAC 9-4-2; filed May 12, 1997, 10:00 a.m.: 20 IR 2708; filed May 28, 1998, 5:14 p.m.: 21 IR 3714; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)

SECTION 5. 312 IAC 9-4-14 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-4-14 Endangered species of birds

Authority: IC 14-22-2-6; IC 14-22-34-17

Affected: IC 14-22-34-12

Sec. 14. The following species of birds are ~~threatened or~~ endangered and are subject to the protections provided under IC 14-22-34-12:

- (1) American bittern (*Botaurus lentiginosus*).
- (2) Least bittern (*Ixobrychus exilis*).
- (3) Black-crowned night-heron (*Nycticorax nycticorax*).
- (4) Yellow-crowned night-heron (*Nyctanassa violacea*).
- (5) Trumpeter swan (*Sygnus buccinator*).
- (6) Osprey (*Pandion haliaetus*).
- (7) Bald eagle (*Haliaeetus leucocephalus*).
- (8) Northern harrier (*Circus cyaneus*).
- (9) Peregrine falcon (*Falco peregrinus*).
- (10) Black rail (*Laterallus jamaicensis*).
- (11) King rail (*Rallus elegans*).
- (12) Virginia rail (*Rallus limicola*).
- (13) Common moorhen (*Gallinula chloropus*).
- (14) Whooping crane (*Grus americana*).
- (15) Piping plover (*Charadrius melodus*).
- (16) Upland sandpiper (*Bartramia longicauda*).
- (17) Least tern (*Sterna antillarum*).
- (18) Black tern (*Chlidonias niger*).

(19) Barn owl (*Tyto alba*).
 (20) Short-eared owl (*Asio flammeus*).
 (21) Sedge wren (*Cisothorus platensis*).
 (22) Marsh wren (*Cisothorus palustris*).
 (23) Loggerhead shrike (*Lanius ludovicianus*).
(24) Cerulean warbler (*Dendroica cerulea*).
 (24) (25) Golden-winged warbler (*Vermivora chrysoptera*).
 (25) (26) Kirtland's warbler (*Dendroica kirtlandii*).
 (26) (27) Henslow's sparrow (*Ammodramus henslowii*).
 (27) (28) Yellow-headed blackbird (*Xanthocephalus xanthocephalus*).
(Natural Resources Commission; 312 IAC 9-4-14; filed May 12, 1997, 10:00 a.m.: 20 IR 2712; filed May 28, 1998, 5:14 p.m.: 21IR 3717; filed Dec 26, 2001, 2:40 p.m.: 25 IR 2535; filed May 16, 2002, 12:25 p.m.: 25 IR 3046; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 542)

SECTION 6. 312 IAC 9-5-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-5-4 Endangered species of reptiles and amphibians

Authority: IC 14-22-2-6; IC 14-22-34-17

Affected: IC 14-22-34-12

Sec. 4. The following species of reptiles and amphibians are ~~threatened or~~ endangered and are subject to the protections provided under IC 14-22-34-12:

- (1) Hellbender (*Cryptobranchus alleganiensis*).
- (2) Red salamander (*Pseudotriton ruber*).
- (3) Four-toed salamander (*Hemidactylium scutatum*).
- (4) Green salamander (*Aneides aeneus*).
- (5) Copperbelly watersnake (*Nerodia erythrogaster*).
- (6) Butler's gartersnake (*Thamnophis butleri*).
- (7) Kirtland's snake (*Clonophis kirtlandii*).
- (8) Scarlet-snake (*Cemophora coccinea*).
- (9) Smooth green-snake (~~*Liochlorophis*~~ ***Opheodrys vernalis***).
- (10) Southeastern crowned snake (*Tantilla coronata*).
- (11) Cottonmouth (*Agkistrodon piscivorus*).
- (12) Massasauga (*Sistrurus catenatus*).
- (13) Timber rattlesnake (*Crotalus horridus*).
- (14) Eastern mud turtle (*Kinosternon subrubrum*).
- (15) Spotted turtle (*Clemmys guttata*).
- (16) Hieroglyphic river cooter (*Pseudemys concinna*).
- (17) Alligator snapping turtle (*Macrochelys ~~temminckii~~ temminckii*).
- (18) Blanding's turtle (*Emydoidea blandingii*).
- (19) Crawfish frog (*Rana areolata*).
- (20) Ornate box turtle (*Terrapene ornata*).

(Natural Resources Commission; 312 IAC 9-5-4; filed May 12, 1997, 10:00 a.m.: 20 IR 2713; filed May 16, 2002, 12:25 p.m.: 25 IR 3047; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 542)

SECTION 7. 312 IAC 9-6-9 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-6-9 Endangered species of fish

Authority: IC 14-22-2-6; IC 14-22-34-17

Affected: IC 14-22-34-12

Sec. 9. The following species of fish are ~~threatened or~~ endangered and are subject to the protections provided under IC 14-22-34-12:

- (1) Lake sturgeon (*Acipenser fulvescens*).

- ~~(2) Cavefishes (Amblyopsidae species).~~
- (2) Northern cavefish (Amblyopsis spelaea).**
- (3) Redside dace (Clinostomus elongatus).
- (4) Variegated darter (Etheostoma variatum).
- (5) Gilt darter (Percina evides).
- (6) Greater redhorse (Moxostoma valenciennesi).
- (7) Bantam sunfish (Lepomis symmetricus).
- (8) Pallid shiner (Hybopsis amnis).
- (9) Channel darter (Percina copelandi).
- (10) Northern brook lamprey (Ichthyomyzon fossor).

(Natural Resources Commission; 312 IAC 9-6-9; filed May 12, 1997, 10:00 a.m.: 20 IR 2716; filed May 16, 2002, 12:25 p.m.: 25 IR 3048; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 547)

SECTION 8. 312 IAC 9-9-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-9-4 Endangered species of invertebrates

Authority: IC 14-22-2-6; IC 14-22-34-17

Affected: IC 14-22-34-12

Sec. 4. The following species of invertebrates are ~~threatened or~~ endangered and are subject to the protections provided under IC 14-22-34-12:

- (1) Rabbitsfoot (Quadrula cylindrica cylindrica).
- (2) Sheepnose (Plethobasus cyphus).
- (3) Clubshell (Pleurobema clava).
- (4) Pyramid pigtoe (Pleurobema ~~pyramidatum~~ **rubrum**).
- (5) Fanshell (Cyprogenia stegaria).
- (6) Snuffbox (Epioblasma triquetra).
- (7) Orangefoot pimpleback (Plethobasus cooperianus).
- (8) Pink mucket (Lampsilis abrupta).
- (9) Fat pocketbook (Potamilus capax).
- (10) Rough pigtoe (Pleurobema plenum).
- (11) ~~Tubercled~~ **Tubercled** blossom (Epioblasma torulosa torulosa).
- (12) White catspaw (Epioblasma obliquata perobliqua).
- (13) Northern riffleshell (Epioblasma torulosa rangiana).
- (14) ~~Long solid~~ Longsolid (Fusconaia ~~subrotunda~~ **subrotunda**).
- (15) White wartyback (Plethobasus cicatricosus).

(Natural Resources Commission; 312 IAC 9-9-4; filed May 12, 1997, 10:00 a.m.: 20 IR 2727; filed May 16, 2002, 12:25 p.m.: 25 IR 3049; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286)